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RUCPDOC/DEPT OF COMMERCE WASHDC  
RUEATRS/DEPT OF TREASURY WASHDC

UNCLAS SECTION 01 OF 02 LAGOS 000257

SIPDIS

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DEPT PASS TO EX-IM KENNETH VRANICH AND BERT C. UBAMADU  
DEPT OF TREASURY PASS TO LKOHLER  
USDOC FOR 3317/ITA/OA/KBURRESS  
STATE PASS OPIC FOR ZHAN AND MSTUCKART  
STATE PASS TDA FOR NCABOT  
STATE PASS USTR FOR ASST USTR SLISER

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TAGS: EFIN ECON EAID PGOV NI

SUBJECT: LAGOS LAND TITLING REFORM MISSES MARK

REF: LAGOS 09

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Summary  
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¶1. (SBU) A cumbersome legal superstructure continues to hamper the real estate and mortgage market in Lagos. Lagos State Governor Bola Tinubu's recent attempts at land reform are cosmetic in nature and do not alleviate the fundamental problems associated with land titling and conveyance in Lagos. His reforms may make procedures for legally transferring titles somewhat less arbitrary. These new procedures, while offering some incentives, are still too cumbersome, costly, and inefficient. They continue to invite too much state government interference in what essentially should be private transactions. End summary.

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Background  
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¶2. (U) The Lagos State Government Lands Bureau held a stakeholders' forum January 26, 2006 to explain procedures implemented last August for obtaining a Governor's Consent. To legally transfer title to real estate, a person must obtain a "Governor's Consent." This procedure requires numerous transaction fees including: a consent fee, capital gains tax, a documentary stamp tax, and registration fees which, when combined, amount to 30% of the capital value of property (reftel). Obtaining a Governor's Consent takes several months. The time and costs associated with the procedure discourage most people from applying. Consequently, most landholders do not have perfected titles to the land they own, and recording of de jure ownership is in substantial variance with actual de facto ownership. Main changes discussed at the January 26 forum included: 1) reducing processing time to within 30 days and 2) reduce cost of obtaining Governor's Consent from 30% to 15% of the property value. (Note: Lagos inaugurated the 30-day Governor's Consent on August 1, 2005 in hopes it would increase the number of people applying for a Governor's Consent. It has not had that salutary effect thus far. End Note.)

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Survey Results Misleading  
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**13.** (U) From August to December 2005, the Lands Bureau conducted a random customer satisfaction survey on the new procedures for the Governor's Consent. According to the survey, over 70% of applicants obtained a Governor's Consent in 60 days or less and 90% of applicants were pleased with the reduction in fees. Survey results, however, are misleading, industry experts posited. Legal Secretary A.A. Daniel of Union Homes, the largest primary mortgagor in Nigeria, said the survey was limited to twenty case files, which is much too small a sampling from which to base conclusions. Moreover, the reduction of fees was insufficient to enable most Nigerians to afford the costs of this procedure.

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Title Transfer Fees Too High;  
Too Much Government Interference  
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**14.** (SBU) Lagos State Lands Bureau Director Onikepo Animashuan said of 2,726 applications for Governor's Consent in 2005, only 505 were registered mortgages. Animashuan estimated that over 80% of land titles are either not documented or registered. Some industry experts claim that figure to be closer to 90%. They argue that Consent fees are too costly, especially for transactions involving the passing of titles from several previous owners. If a title has never been perfected, the current owner would have to pay all the fees for the previous title owners who never obtained Governor's

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Consent. In such a case, title transfer fees could soon match or exceed the value of the property. To reduce cumulative Consent fees, Animashuan said the Governor could give concessions on a case-by-case basis. (Comment: Individual intervention by the Governor makes the title transfer process highly inefficient, and continues to make the process susceptible to political considerations. End Comment.)

**15.** (SBU) Critics point to the 1978 Land Use Act as the root of the problem because it vests too much control in the state governments over private property. CEO Babalakin and Company, B.O. Babalakin, said the new procedures were insufficient to spur real estate development. He sent Governor Tinubu a confidential memo in 2001 stating the need to address land tenure problems, but said his suggestions have not been implemented. Banks have lost confidence in the Governor's Consent document, and it is difficult to convince people to perfect titles, Babalakin argued. He said if Consent fees, bureaucratic hassles, and waiting times for obtaining Governor's Consent could be reduced, more people would apply.

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Titling Issues Drain Economic Growth;  
Governor's Consent A Major Concern for Banks  
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**16.** (U) United Bank of Africa (UBA) Global Markets CEO Sonnie Ayere said the bureaucratic hassles and high transaction costs associated with obtaining a Governor's Consent impeded economic growth. He claimed the transaction costs associated with collateral processing, foreclosure, and resale cost the economy billions of naira per year. While banks prefer real estate as collateral for secured loans, many loans cannot be concluded because individuals or companies do not have perfected titles. Ayere said a lack of formal ownership is a critical barrier to secured credit access for borrowers.

**17.** (SBU) Lagos Land Bureau Director Animashuan said many banks resort to "equitable" loans in place of mortgages

because most people do not have perfected titles. A person would submit his title deed to the bank for a loan, even though the title has not been perfected, and the bank runs the risk that the facility might go bad. Union Homes Lekki Branch Manager, Ifeanyi Ozoh, said before bank consolidation, 70-80% of applicants applied for an equitable loan in place of a mortgage loan to avoid costs associated with registering and perfecting titles, but that post-consolidation, less banks would be willing to do so. However, industry experts are unconvinced that the new 30-day procedures will significantly compel more people to switch from obtaining "equitable" loans to obtaining mortgage loans through banks. The long delays and high costs associated with perfecting titles and transferring titles discourage even well-to-do individuals from applying, they said.

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Comment  
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18. (SBU) The media and Lagos State government tout this new procedure as a "landmark" event in land reform. Their claims are overstated. The measure represents progress, but not a breakthrough. Fundamental legal restrictions continue to prevent the growth of the real estate market. These restrictions have led to artificial scarcity, escalated land prices, and have stifled economic activity over the years. Ultimately, genuine reform is dependent on amendment of the 1978 Land Use Act. Until then, changes like those introduced by Lagos State will basically be superficial. End Comment.

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